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Transfer of Community Court Orders across the UK

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The [Criminal Justice Act 2003](#), [Criminal Justice Act 1982](#), and s.14 of the [Criminal Justice & Licensing \(Scotland\) Act 2010](#) inserted new provisions (sections 227A to 227ZO) and [Schedule 13](#) into the [Criminal Procedure \(Scotland\) Act 1995](#) which facilitates the transfer of Community Court Orders within Scotland as well as **to** and **from** Scotland, England, Wales & Northern Ireland. This allows for a more straightforward process for the transfer of community orders including Scottish Community Payback Orders and [English](#) Community Orders and Suspended Sentence Orders. Previously, community orders could not be easily transferred due to a lack of equivalent legislation. These arrangements are only applicable to those aged 16 and over. The [Community Payback Order Practice Guidance](#) sets out the process for transferring a CPO within Scotland.

There are two possible scenarios where a Community Order can be transferred, **to** or **from** another UK jurisdiction:

- At the point of sentence or
- Following imposition of the order and when an individual proposes to move to another jurisdiction.

In both scenarios, the following criteria must be met:

- The individual is over 16 years
- The individual resides, or will reside in Scotland, England, Wales or Northern Ireland
- A corresponding order with broadly similar requirements or disposal is available in the receiving jurisdiction, to facilitate arrangements for the individual to comply with the imposed order by the sentencing court; and
- Transfer arrangements have been agreed with the receiving Social Work Service in Scotland, Probation Services ([NPS](#) or [PBNi](#)) or, where appropriate, youth offending teams ([YOTS](#)) in England and Wales or Youth Justice Area Teams ([YJA](#)) in Northern Ireland.

Transfer at the point of sentencing

When a Court is considering imposing a CPO on an individual who currently resides in another UK country, then the receiving Social Work Service in Scotland or Probation Service England, Wales and Northern Ireland should be asked to prepare any Criminal Justice Social Work Report (CJSWR) requested by the court. The CJSWR must evidence that the necessary arrangements can be put in place to facilitate any comparable and transferable community disposal issued by the sentencing court. It should also reflect the views of the convicted person toward compliance and highlight any anticipated compliance issues, e.g. short-term residence in the new area.

Currently, certain CPO requirements such as a compensation requirement cannot be transferred and in these circumstances, the court will require to impose a compensation order, which can be transferred. In addition, where a Restriction of Liberty Order is being considered, all necessary checks and communication with appropriate householders and monitoring service providers in the receiving jurisdiction must be facilitated by the receiving jurisdiction.

On issuing the Community Order the sentencing Court requires to consider the length of the equivalent Community Order or Requirement in the receiving jurisdiction, e.g. a Curfew Requirement has a maximum time limit of six months in England but 12 months in Scotland. The sentencing Court will transfer the order to a court within the receiving jurisdiction, completing the transfer process.

Transfer once an order has begun

To transfer an active CPO to Scotland, England, Wales or Northern Ireland the existing supervising officer **must** contact the appropriate Social Work or Probation Service in the proposed jurisdiction to initiate the transfer request. The information below must be shared between the current and receiving authorities at the earliest opportunity.

Please note these differ slightly across the four home nations' justice services.

Supervising Authority	Receiving Authority
<ul style="list-style-type: none">• The name and date of birth of the individual; Details of the offence, previous offences and sentences;• All available background information including reports;• Details of the address where the individual intends to reside;• Details of the CPO, including requirements and any court progress reviews.• A record of progress to date;• Details of Risk Management and Contingency Planning arrangements, if subject to MAPPA;• The most recent risk assessments; and• If the individual is subject to unpaid work, the original amount of hours imposed and the amount outstanding at the point of transfer.	<ul style="list-style-type: none">• That accommodation arrangements have been made at the given address;• The proposed stay at the given address is permanent in nature;• Whether the individual has family or other relationship ties to that area;• Whether there are any other strong compassionate or compelling grounds to support the transfer request;• Whether the transfer would have any adverse effect on the protection of the public, prevention of re-offending or the rehabilitation of the individual; and• Whether such a change of address would result in the individual being in close proximity to their victim(s) and the implications of this.

When satisfied that the Community Order legislation can be supported through equivalent legislation and that any conditions for the management of risk can be implemented, for an individual who has secured a permanent move to another jurisdiction, the transfer should be agreed on a permanent basis. If there is failure to satisfy all criteria or where the move is identified as being short term, an agreement may be made to accept the supervision of the Community Order, on behalf of the current supervision authority. This will not require the formal transfer of the order.

To complete the transfer the current supervising officer is required to submit a transfer request letter to the sentencing court with a request that the court formally transfer to the court covering the receiving jurisdiction. This should take place within five working days. A progress report should accompany this outlining all of the details and highlighting to the court where corresponding requirements are not available to enable the court to vary, revoke or discharge such requirements or orders if it agrees that the transfer is appropriate.

The individual would be required to appear before the court for the transfer request to be heard. Before imposing any order, the court must explain to the individual ensuring they understand and are willing to comply with any order or requirement. The court must also explain the requirements of the legislation relating to the corresponding order, the powers of the home court under that legislation and Schedule 13 of the 1995 Act relating to the corresponding order and the courts powers under the 1995 Act.

A National Cross Border Working Group has been implemented to review and update existing guidance and develop supportive procedures and guidelines. Thanks to Kim McPartland for her contribution to this.